

## ORDINANCE NO. 16-04

### AN ORDINANCE OF THE CITY COUNCIL OF COSTA MESA, CALIFORNIA ADOPTING ZONING CODE AMENDMENT CO-16-01 AMENDING TITLE 13, CHAPTER VIII, ARTICLES 2, 6 & 6.5, POLITICAL CAMPAIGN SIGNS AND PORTABLE SIGNS WITHIN PUBLIC RIGHT-OF-WAY AND TABLE 13-115

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

#### SECTION 1: FINDINGS

The City Council finds as follows:

- a. The City controls the rights of way within the city, and, as property owner, has greater ability to regulate what speech may or may not occur in the right of way than it does on private property.
- b. The City could lawfully prohibit all temporary non-commercial and commercial signage in the right of way.
- c. In the four weeks prior to an election, there is a greater desire by the public to place non-commercial signage in the city's right of way than in the period after an election.
- d. The city has significant interest in promoting traffic safety and protecting the aesthetics of the community.
- e. Especially in the four weeks prior to elections, the city incurs substantial direct and indirect costs in enforcing strict regulations upon the placement of non-commercial signage within the city's right of way.
- f. The best way to balance the public's desire to place signage within the right of way with the need for the city to promote community aesthetics and traffic safety is to establish reasonable, content neutral time-place manner restrictions which allow the public to place signage within the city's right of way in the six weeks prior to an election.
- g. This ordinance will revise the municipal code to better align the code with the 2015 U.S. Supreme Court case, *Reed v. Town of Gilbert*.
- h. The ordinance is intended to treat all non-commercial portable signs in an equal manner, regardless of the content of such signs.
- i. The regulations established by this ordinance do not impermissibly infringe upon speech as there are multiple alternate methods via which the public may communicate including via signs placed on private property in a manner consistent with applicable law.

**SECTION 2:** Title 13, Chapter VIII, Article 2, Definitions of the Costa Mesa Municipal Code, is hereby amended as follows:

**Commercial portable sign.** Any sign which can be moved from place to place which is not permanently affixed to the ground or to a building used for commercial purposes. The term portable sign includes, but is not limited to, any sign affixed to

an automobile, truck, trailer, or other vehicle where such sign solicits patronage to a specific business by means of parking such a vehicle primarily for the purpose of advertising such business. The term portable sign shall also include a sign posted in or on a vehicle parked on public or private property without written consent of the property owner, advertising that vehicle for sale.

**Non-commercial portable sign.** Any sign which can be moved from place to place which is not permanently affixed to the ground or to a building which is not used for commercial purposes. Examples of non-commercial signs generally include, but are not limited to, signs that espouse a political or religious viewpoint, and signs commenting on public official(s) or matter(s) of public discourse.

**SECTION 3:** Title 13, Chapter VIII, Table 13-115 ("Sign Regulations and Design Standards"), is hereby amended as follows:

	RESIDENTIAL ZONES	COMMERCIAL ZONES	INDUSTRIAL ZONES	INSTITUTIONAL ZONES
NON-COMMERCIAL PORTABLE SIGNS ON PRIVATE PROPERTY	5 sq. ft. maximum per sign with a maximum 6-foot height above grade for signs affixed in the ground subject to the time periods set forth in Section 13-123 (a)(5)			
COMMERCIAL PORTABLE SIGNS WITHIN THE PUBLIC RIGHT-OF-WAY	Subject to Section 13-123.5.			

**SECTION 4:** Title 13, Chapter VIII, Article 6, Political Campaign Signs, is hereby amended as follows:

#### **ARTICLE 6. PORTABLE SIGNS WITHIN THE PUBLIC RIGHT-OF-WAY**

##### **Sec. 13-123. NON-COMMERCIAL PORTABLE SIGNS**

(a) **Standards.** A non-commercial portable sign may be placed on or within the public right-of-way without a permit, provided it complies with the following requirements:

(1) **Size and height.** The maximum size shall not exceed five square feet and the maximum height shall not be more than three feet above grade.

- (2) **Identification.** The owner of the signs(s) shall affix its name, address, and telephone number to the sign prior to installation of the sign.
- (3) **Location.** The location for installation of a non-commercial portable sign within the public right-of-way shall be subject to the following:
  - a. The sign may be placed in any landscaped parkway but not within the center median of any street or highway. Tree wells shall not be considered a landscaped parkway for the purposes of this section;
  - b. The sign shall not overhang any street, curb, sidewalk, or driveway;
  - c. The sign shall not be within 15 feet of any fire hydrant;
  - d. The sign shall not be within 15 feet of the edge of any driveway nor within 15 feet of any intersection of an alley, street, or highway, as measured from the midpoint of the corner radius;
  - e. The sign shall not be placed within the public right-of-way adjacent to any property zone I & R, or I & R-S;
  - f. The sign shall not be affixed to traffic control devices, government signs, light standards, utility poles, bus shelters, or other structures, posts, fences, shrubs or trees.
- (4) **Installation.** The installation of the non-commercial portable sign shall not cause damage to the public right-of-way.
- (5) **Time Period.** In general, a non-commercial portable sign in the public right-of-way shall only be displayed during the time period between 6 am Friday to 6 pm Sunday of any week period. However, during the six-week period before any election of any level of federal, state, or local government that directly serves the residents of the City of Costa Mesa, non-commercial signs may be installed in the public right-of-way regardless of the day or time. Such signs are to be removed no later than 10 days following the date of such election.
- (b) **Exceptions.** The requirements of this section shall not apply to a non-commercial portable sign with a total area of not more than five square feet that is carried by a person within the public right-of-way unless prohibited by Section 13-112.

**SECTION 5:** Article 6.5 of Chapter VIII of Title 13 of the Municipal Code is deleted, and existing section 13-123.5, currently within Article 6.5, is moved to be within Article 6. Section 13-123.5 is revised as follows:

**Sec. 13-123.5 COMMERCIAL PORTABLE SIGNS WITHIN PUBLIC RIGHT-OF-WAY**

- (a) **Standards.** A commercial portable sign may be placed on or within the public right-of-way without a permit, provided it complies with the following requirements:
  - (1) **Size and height.** The maximum size shall not exceed five square feet and the maximum height shall not be more than three feet above grade.

- (2) **Identification.** The owner of the signs(s) shall affix its name, address, and telephone number to the sign prior to installation of the sign.
- (3) **Location.** The location for installation of a commercial portable sign within the public right-of-way shall be subject to the following:
  - a. The sign may be placed in any landscaped parkway but not within the center median of any street or highway. Tree wells shall not be considered a landscaped parkway for the purposes of this section;
  - b. The sign shall not overhang any street, curb, sidewalk, or driveway;
  - c. The sign shall not be within 15 feet of any fire hydrant;
  - d. The sign shall not be within 15 feet of the edge of any driveway nor within 15 feet of any intersection of an alley, street, or highway, as measured from the midpoint of the corner radius;
  - e. The sign shall not be placed within the public right-of-way adjacent to any property zone I & R, or I & R-S;
  - f. The sign shall not be affixed to traffic control devices, government signs, light standards, utility poles, bus shelters, or other structures, posts, fences, shrubs or trees.
- (4) **Installation.** The installation of the commercial portable sign shall not cause damage to the public right-of-way.
- (5) **Time period.** A commercial portable sign shall only be displayed during the time period between 6 am Friday to 6 pm Sunday of any week period.
- (6) **Number.** The total number of commercial portable signs per owner or its agent pursuant to this section shall not exceed 10 signs in the city at any one time.
- (b) **Exceptions.** The requirements of this section shall not apply to a commercial portable sign with a total area of not more than five square feet that is carried by a person within the public right-of-way unless prohibited by Section 13-112.

**SECTION 6: ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to CEQA Guidelines Section 15061(b)(3) (general rule), in that the City Council hereby finds that it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment as this regulation affects only temporary signage, the revisions caused by the ordinance are technical, rather than substantive in nature, and this ordinance authorizes that which is, for practical purposes, nearly the baseline condition.

**SECTION 7: INCONSISTENCIES.** Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 8: SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or

clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 9: PUBLICATION.** This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

**PASSED AND ADOPTED this 2<sup>nd</sup> day of August 2016.**



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James M. Righimer, Mayor Pro Tem

APPROVED AS TO FORM:



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Thomas Duarte, City Attorney

ATTEST:



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Brenda Green, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF ORANGE     ) ss  
CITY OF COSTA MESA     )

I, BRENDA GREEN, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above foregoing Ordinance No. 16-04 as introduced and considered section by section at a regular meeting of said City Council held on the 5<sup>th</sup> day of July, 2016, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the 2<sup>nd</sup> day of August, 2016, by the following roll call vote:

AYES:	COUNCIL MEMBERS:	FOLEY, GENIS, RIGHEIMER
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	MONAHAN, MENSINGER

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this 3<sup>rd</sup> day of August, 2016.



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Brenda Green, City Clerk